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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,886	04/27/2005	Takumi Ikeda	MAT-8594US	6694

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EXAMINER

MULLEN, THOMAS J

ART UNIT	PAPER NUMBER
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2612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/506,886

Applicant(s)

IKEDA ET AL.

Examiner

Thomas J. Mullen, Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/7/04, 5/12/06, 7/24/06: total 4 pp.</u> | 6) <input type="checkbox"/> Other: ____ |

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. (The disclosure has many grammatical and/or idiomatic errors.) Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Errors noted by the examiner include:

page 2, line 2, it appears that the semi-colon after "example" should be a comma;

page 2, line 3, it appears that "to" should be deleted;

page 2, line 4, it appears that "to" should be --on--;

page 3, line 26, it appears that "other" should be --another--;

page 8, line 1, it appears that "eights" should be --eighth--;

page 10, lines 2-9, the various types of "external information" listed are grammatically unclear, i.e. it appears that one or more words should be inserted after "typing" (line 2) and after "information" (lines 4, 5, 6 and 9), and on line 7 it appears that "counts" should be --count--;

page 10, line 22, it appears that "among" should be --with--;

page 12, line 20, "one or more number of..." is vaguely worded, i.e. it appears that "number of" should be deleted since this phrase is already implied;

page 13, line 14, "offirst" should be --of first-- (i.e., two words);

page 14, line 19, it appears that "among" should be --with--;

page 17, line 24, it appears that "identifier" should be --identifiers--;

page 25, lines 10-11, it is unclear what is meant by "ALGOLISM(s)" (two occurrences);
in the paragraph starting at page 33, line 21 (see the preliminary amendment filed by applicant on 9/7/04), it appears that the occurrences of "thirty second" and "thirty first" (last 2 lines) should be switched (note Fig. 14), and both terms should be hyphenated;

page 37, last line, "having two type information" is vaguely worded (perhaps "type" should be --types of--);

page 38, line 4, "one set, or more number of sets" is vaguely worded (perhaps the phrase would be clearer as --one or more sets--);

page 40, line 15, "parting away" is vaguely worded;

page 43, line 18, it appears that one or more words should be inserted after "one or more";

page 46, line 18, it appears that "an" should be deleted;

page 47, the use of the phrases "picks up" (lines 14-15) and "picked up" (lines 19 and 21, one occurrence on each line), in association with an "identifier", is vaguely worded;

page 49, it appears that the semi-colon after "decides" (line 12) and the semi-colons after "parameter" (line 13, two occurrences) should be deleted, or replaced by a comma;

page 50, line 25, it appears that "followings" should be --following--;

page 51, line 2, "the busyness level of profession" is vaguely worded;

page 54, line 15, it appears that one or more words should be inserted after "a recorded";

page 61, lines 18-19, "they are concentrated to the task" is vaguely worded;

page 67, line 1, it appears that "FRID" should be --RFID--;

page 71, line 3, it appears that "FRID" should be --RFID--;

page 71, line 5, it appears that "locating" should be --located--;

page 73, line 15, "parting away" is vaguely worded;

page 82, line 3, it appears that one or more words should be inserted after "passions";

in the paragraph starting at page 91, line 11 (see the preliminary amendment filed by applicant on 9/7/04), it appears that both occurrences of "530112" should be --590112-- (see Fig. 59); and

page 96, line 21, it appears that "a" should be deleted.

2. The drawings are objected to because:

Fig. 3, block S304, "Transmits" should be --Transmit--;

Fig. 11, block 11011, "light output device" should be --parameter receiver-- (note block 11031 by comparison);

Figs. 14 and 25, blocks 140331 and 140332 in each figure, "Thirty first" and "Thirty second" should be hyphenated;

Fig. 41, blocks S4101 and S4107, "exist" (one occurrence in each block) would be clearer as --received-- (note pages 63-64 of the specification);

Fig. 43, block S4307, "exist" would be clearer as --received-- (note page 69 of the specification);

Fig. 49, block 4910, "Transmits" should be --Transmit--;

Fig. 52, on the last line in each of blocks 5201 and 5202, it appears that "Heat" should be --Health-- (note e.g. Fig. 49, block S4906, and page 79, line 3 of the specification);

Fig. 56, within block 56031, it appears that "560112" should be --560312--;

Fig. 59, within block 59031, it appears that "590112" should be --590312--; and

Fig. 62, within block 62031, it appears that "620112" should be --620312-- (also, within this sub-block, it appears that "revolution" should be --external--, note sub-block 620112 by comparison).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claims 19-20 and 53-54 are objected to under 37 CFR 1.75(b) as being "unduly multiplied", i.e. these claims appear to be identical or nearly identical in scope.

Claims 19 and 53 are drawn to "location information", while claims 20 and 54 are drawn to "place information". The intended difference in scope, if any, between these pairs of claims (i.e., by using the term "location" as opposed to the term "place", and vice versa) is not clearly understood from the disclosure. In the specification, applicant discusses these terms at page 10, lines 4-5 (where they are nominally listed as separate parameters) and page 66, last 3 lines (where they are used interchangeably); since in general these terms are extremely similar in

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meaning, it is unclear whether or not applicant is, in fact, defining separate conditions or parameters regarding the "external information" using these terms.

4. Claims 1-64 are objected to under 37 CFR 1.75(a) for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At various points in the claims, the phrases "one or more number of...", "three or more number of...", etc., are vaguely worded; i.e., it appears that "number of" should be deleted since this phrase is already implied. See claim 1, last 2 lines (two occurrences); claim 7, last 2 lines (two occurrences); claims 12-16 (last line in each claim); claim 31, lines 9-10 (two occurrences); claim 33, last 2 lines (two occurrences); claim 34, lines 16-17 (two occurrences); claim 41, last 2 lines (two occurrences); and claims 46-50 (last line in each claim).

Claim 2, lines 4, 7 and 8, "a information" (one occurrence on each line) should be --an information--.

Claim 5, line 3, one of the redundant occurrences of "pieces of" should be deleted.

Claim 5, last line, it appears that after "pieces" should be inserted --of--.

Claim 8, line 4, "a information" should be --an information--.

Claim 8, last line, it appears that after "and" should be inserted --an--.

Claim 10, line 5, "output a light" is vaguely worded.

Claim 11, line 3, "a plurality of the external information" is vaguely worded.

Claim 11, last 2 lines, "the plurality of light control parameters" lacks clear antecedent basis.

Claims 14 and 15, "the light output method" (one occurrence in each claim) lacks antecedent basis.

Claims 18 and 52, "the CPU loading rate" lacks antecedent basis; i.e. there is no prior recitation of a "CPU", much less of a "loading rate" thereof.

Claims 25 and 59, "an information" should be simply, --information--.

Claim 31, lines 2-3, "a light output device recited in an external information receiver" is vaguely worded, i.e. it appears that "recited in" should be replaced by --comprising-- (note e.g. claim 33, lines 7-8 by comparison).

Claim 31, lines 10-11, it appears that "which relay comprising" would be clearer as --the relay comprising-- or --wherein the relay comprises--.

Claim 31, line 11, the semi-colon after "comprising" should be either a colon or a comma, or simply deleted.

Claim 31, last line, "the transmission destination identifier acquisition unit" lacks antecedent basis.

Claim 32, line 2, it appears that "is storing" should be --stores--.

Claim 32, line 3, it appears that "a transmission" should be simply, --transmission--.

Claim 32, lines 4-5, "one set or more number of sets" is vaguely worded (perhaps the phrase would be clearer as --one or more sets--).

Claim 33, line 2, "a plurality of external information" is vaguely worded.

Claim 34, lines 2-3, "a plurality of external information" is vaguely worded.

Claim 34, line 5, "the plurality of history information" lacks clear antecedent basis.

Claim 34, line 17, it appears that one or more words should be inserted after "states".

Claim 35, line 3, it appears that "being" should be --is--.

Claim 35, line 7, "the light output" lacks clear antecedent basis.

Claim 36, line 3, it appears that before "information value" should be inserted --an--.

Claim 39, line 3, "a plurality of the external information" is vaguely worded.

Claim 39, lines 4-5, "the plurality of pieces of the external information" lacks clear antecedent basis.

Claim 42, line 3, it appears that before "information value" should be inserted --an--.

Claim 44, line 2, it appears that "is" should be --are--.

Claim 45, line 3, "a plurality of the external information" is vaguely worded.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where claims 1-34 and 46-64 are generally directed to an apparatus (e.g. "light output device"), the use of the terms "method" and "methods" at various points in these claims (note e.g. claim 4, lines 2-4 and claim 7, line 7) renders unclear whether these claims are in fact reciting a "method" instead of, or in addition to, the "apparatus"; put another way, it is unclear which single statutory class of invention (i.e., apparatus or method) characterizes each of claims 4, 7-11, 14, 15, 33-34 and 46-64. See Ex parte Lyell, 17 USPQ 2d 1548 (PTO Board of App. 1990).

Claim 1, lines 2-5, the phrases "first external information, which is information transmitted from an outside, among external information" and "second external information, which is other information, among the external information" are indefinite and vaguely worded as to (i) what is meant by "information transmitted from an outside" (i.e., outside of what?); (ii) what is meant by receiving "first" and/or "second" external information "among external information", i.e. it is unclear how (if at all) the term "among" is intended to relate the overall "external information" to either of the "first" and "second" types thereof; and (iii) what is meant by "other information" (i.e., other than what?).

Claims 3-4 and 9-10, regarding the "light output controller" recitation in each claim, it is unclear what is meant by the type information in the external information being "relevant to" the type information stored in the memory; i.e., the particular relationship (e.g., degree of similarity) required between the different kinds of "type information", in order for "the light output unit to output the light", cannot be determined from the phrase "relevant to".

Claims 16 and 50, "the light output size" lacks clear antecedent basis, and/or it is unclear what characteristic of a "light output" is being referred to by the term "size"; also, the relationship between a "light output size" and a "light source size" is not set forth in the claim.

Claims 19-29 and 53-63 each end with a phrase in the form of "information related to the ----" or "information indicating the ----", where "----" refers to an animate or inanimate entity or parameter. In each case, it is unclear what, or whom, the "(external) information" is concerned with (e.g., it is unclear whether the health-related parameters of claims 22-25 and 56-59 necessarily pertain to a user of the "light output device", or could they pertain to some other

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person; it is unclear whether the "location" and "place" of claims 19-20 and 53-54 pertain to the location/place of the user and/or the light output device, or could they pertain to some other animate or inanimate object or entity; etc.).

Claim 31, lines 1-6, the phrases "receiving an external information of an outside", "first external information, which is information transmitted from an outside, among external information" and "second external information, which is other information, among the external information" are indefinite and vaguely worded; note the discussion of claim 1, lines 2-5 above.

Claim 37, line 3 and claim 38, lines 2 and 5, it is unclear which previously recited element(s) is/are being referred to by "it".

Claims 37-38 and 43-44, last line in each claim, the use of "relevant to" is indefinite; note the discussion of claims 3-4 and 9-10 above.

Claim 38, line 2, it is unclear whether "a plurality of light output methods" includes, further defines, etc., the "light output device control method" recited in the preamble of claim 35, or refers to distinctly different "methods" (in which case, it is unclear which "method" is the subject of the claim as a whole).

Claim 41, lines 5-6, "the light output method" lacks antecedent basis, and/or it is unclear whether this "method" is the same or different method as the "method of controlling..." recited starting on line 2.

Claim 45, line 3, it is unclear which previously recited element(s) is/are being referred to by "it".

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 35-45 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 35-45 are drawn to a "computer-readable program" per se, which is non-statutory subject matter under 35 U.S.C. 101. A claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, is regarded as

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nonstatutory functional descriptive material. In contrast, a claimed computer-readable medium encoded with a data structure would define structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and would thus be statutory. See MPEP 2106.01.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3, 6-9, 11, 30, 35-37, 40-43, 45 and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by European Application publication EP 0875821 (hereinafter EP '821), cited by applicant.

As to claim 1, EP '821 discloses a light output device (A,A1,A2--Figs. 1-4B), note external information receiver(s) (2) for receiving first external information; external information acquisition unit (101,101c,101d) for acquiring second external information; light output unit (LED/illumination unit 25d,102d and/or display 102a); and light output controller (24) for controlling the light output of the light output unit to be in one or more "output states" selected from among three or more such states (see e.g. col. 17, line 51 to col. 18, line 1, and col. 23, line 49 to col. 24, line 6, regarding the LED/illumination unit; and, col. 17, lines 38-50, col. 23, lines 26-48 and col. 24, lines 7-33, regarding the display). See further in EP '821, col. 1, line 53 to col. 3, line 15; col. 7, line 54 to col. 10, line 46; col. 12, lines 8-38; col. 16, lines 41-48; and col. 20, lines 10-21.

Further as to claim 7, note external information transmitter (1) for transmitting the second external information; also, either of the external receiver (2) or the external acquisition unit (101,101c,101d) is inherently a "parameter" receiver for receiving a "light control parameter" (i.e., any information received inherently defines one or more "parameters" used to "control" the light output--note e.g. the "parameters" discussed at col. 10, lines 18-29).

As to claims 35 and 41, the light output device of EP '821 includes a central processor (100) having a CPU (100a) and other elements (see Fig. 2), for controlling operation of the device; it is inherent that such components operate according to a "computer-readable program", as claimed (note e.g. the "program for data processing and communication" mentioned at col. 8, lines 12-13).

Regarding claims 2, 8, 36 and 42, the light output unit (25d,102a,102d) of EP '821 is inherently a light output "tool"; the external information includes "type" information (note in Fig. 6 "Discrete Physical Quantities Identifier", and col. 13, lines 26-31) and an "information value" (note in Fig. 6 "Physical Quantity Data" which inherently represents an "information value"--i.e. "numerical values", col. 10, lines 35-36); and the light output controller controls the light output unit based on the type information and the information value contained in either or both of the "first" and the "second" external information, as applicable.

Regarding claims 3, 9, 37 and 43, input data storage unit (16,100b) of EP '821 defines a "type information memory" for storing the type information, see col. 12, lines 44-46; and the light output controller (24) inherently "instructs" the light output unit (25d,102a,102d) to output light in a particular manner only when the type information in the first external information is "relevant to" the type information stored in the memory.

Regarding claims 6 and 40, note the discussion of claims 7 and 41 above.

Regarding claims 11 and 45, the external transmitter (1) implicitly transmits "a plurality of" the external information; and the light output controller (24) implicitly controls the light output unit based on a plurality of light control "parameters" in the parameter receiver (note the discussion of claims 7 and 41 above).

Regarding claims 30 and 64, as clearly shown in Fig. 1 the light output device of EP '821 has a "rectangular" shape.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 4-5, 10, 12-29, 38-39, 44 and 46-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '821.

Regarding claims 4, 10, 38 and 44, EP '821 teaches a plurality of light output "methods" as generally discussed above with respect to LED/illumination unit 25d, 102d and/or display 102a (e.g., such "methods" being responsive to certain light control "parameters" or "external information" as discussed above with respect to claim 7), and further teaches at least certain types of "light output method identifiers" stored in memory (note "Symbol Image Data Identifier", Fig. 7), such that the light output controller instructs the light output unit (e.g., display 102a) to output light in accordance with the identified light output "method"; however, EP '821 doesn't appear to teach identifying the light output methods and the type information "under a counterpart relationship". However, one skilled in the art would have recognized that the desired light output (method) from the light output unit directly corresponds to the particular "type information" that is present at a given time, such that one would logically group together the "light output methods" with the corresponding "type information"; therefore, one skilled in the art would have found it obvious to use "light output identifiers" in EP '821 to identify the "light output methods" with the "type information" therein under a "counterpart relationship", as claimed.

Regarding claims 5 and 39, EP '821 doesn't appear to teach storing "pieces" of external information containing the first and the second external information in a memory; however, one skilled in the art would have recognized the need to store values, identifiers, etc., associated with the first and the second external information, so as to properly respond to a given value/identifier present at a given time. Therefore, it would have been obvious to store "pieces" of external information containing the first and the second external information in a memory in EP '821, as claimed.

Regarding claims 12-29 and 46-63, where EP '821 teaches producing a variety of "light outputs" from the light output unit, representing a corresponding number of external conditions or "parameters" present at a given time (i.e., "external information"), the examiner takes Official Notice that one skilled in the art would have found it obvious to modify the "light output" in a wide variety of ways, as desired, and to represent a corresponding wide variety of "external"

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conditions or "external information" based thereon, such as the particular examples of "light output" and "external information" recited in claims 12-29 and 46-63.

13. Claims 31-34 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, and/or the objection(s) under 37 CFR 1.75(a), set forth in this Office action.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The remaining art cited by applicant has been considered. Akashi et al (US 6611297) is the US equivalent of JP 2000-173783, cited by applicant. Zittrain et al (US 6998984), Pembroke (US 2002/145522), Nordholm et al (US 4978946) and Levinson et al (US 4611198) are cited to further show the state of the art.


15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mullen, Jr. whose telephone number is 571-272-2965. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJM


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